

ATMI-513
Customer ID No.: 25559**Remarks*****Response to Restriction Requirement:***

In response to the Office Action dated July 29, 2003 in the above-identified application, wherein a restriction requirement was imposed against the following claim groups:

Claims 1 and 3-10, drawn to compounds, classified in class 556, subclass 400+

Claim 2, drawn to a method of making, classified in class 556, subclass 400+

Claims 11-57, drawn to CVD process, classified in class 438, subclass 600+

applicant hereby elects, with traverse, the Group I claims 1 and 3-10.

In the same Office Action, Examiner Barts states in Section 6,

Claims 3-10 are generic to a plurality of disclosed patentably distinct species comprising for examples the compound of claims 1, 9 and 10. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

In such statement however, Examiner Barts fails to identify the species from which applicant is to elect.

In the absence of such identification, and in a diligent effort to satisfy the election of species requirement, applicant elects Formula 1 as identified in claim 4, and further identifies claims 1, 3-10 as reading on the elected Formula 1.

The traversal of the restriction requirement is based on the fact that 35 U.S.C. § 121 permits restriction only if two or more inventions are claimed in one application, which are both independent and distinct.

In the July 29, 2003 Office Action, the statement of reasoning in support of restriction requirement discusses distinctiveness in detail, but appears to presume that claim Groups I-III represent independent inventions.

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In fact, claim 2, identified hereinabove as Group II, claims a synthetic process for making "diformalodimethylsilane" the composition of applicant's claim 1. Moreover, Groups I and II are both classified in class 556, subclass 400+.

According to MPEP 803 Restriction – When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

On such basis the present restriction of claims identified as Groups I and II herein, is improper as a search and examination can be made without serious burden as evidenced by both claim Groups having been assigned to the same patent class.

It therefore is requested that Examiner Barts reconsider the propriety of the restriction requirement, and withdraw same in favor of the continued consolidation and unitary prosecution of claims 1-10, in the present invention.

Fees Due and Payable:

Applicant does not believe that any fee is due in connection with the foregoing. However, should the Office determine that a fee is due in connection with this communication and its entry into the present file-wrapper, applicant hereby authorizes that such fee be deducted from applicant's deposit account, number 50-0860.

Conclusion

Applicant has made an earnest attempt to fully respond to and comply with the July 29, 2003 Office Action in the present application and respectfully requests continued prosecution on the merits of claims as elected herein.

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Should any questions still remain in connection with the entry of this amendment, Examiner Barts is invited to contact the undersigned agent at 203 739-1435 to resolve same.

Respectfully submitted,



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